

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Fouarge

Serial No.: 10/528,713

Confirmation No.: 8448

Filed: August 11, 2005

For: Slurry Loop Polyolefin Reactor

§ Atty. Dkt. No.: F-858

§

§ Group Art Unit: 1713

§

§ Cust. No.: 25264

§

§ Examiner: Cheung

§

§

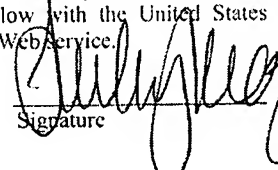
§

§

§

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Honorable Commissioner:

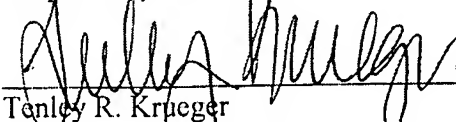
CERTIFICATE OF EFS-WEB TRANSMISSION 37 CFR 1.10	
I hereby certify that this correspondence is being deposited on the date below with the United States Patent Office via the EFS-Web Service.	
2/17/2009 Date	 Signature

TRANSMITTAL LETTER

In connection with the above identified application, Applicants respectfully resubmit the following in response to the Notice of Non-Compliant Appeal Brief dated February 2, 2009:

1. Replacement Summary of Claimed Subject Matter.

Respectfully submitted,



Tanley R. Krueger

Registration No. 51,253

T.R. Krueger, P.C.

P.O. Box 16356

Sugar Land, Texas, 77496

Telephone: 281-778-8934

Fascimile: 281-778-8937

Attorney for Appellant(s)

directly affect, be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

Claims 1-15 were originally presented in the application. Claim 1-15 were cancelled and claims 16-35 were added in a Preliminary Amendment. Claims 36-37 were added in Response to the Office Action dated October 12, 2006. Claims 16 and 37 were cancelled in Response to the Office Action dated April 5, 2007. Claims 31-33 were cancelled and claim 38 was added in Response to the Office Action dated December 5, 2007. Accordingly, claims 17-30, 34-36 and 38 are pending in the application. Claim 38 stands rejected under 35 U.S.C. §112, first paragraph. Claims 17-30, 34-36 and 38 stand rejected under 35 U.S.C. §103(a). All rejections of the pending claims are appealed. The pending claims are shown in the attached Appendix A.

Status of Amendments

No amendments have been made to the pending claims in Response to the Final Office Action.

Summary of Claimed Subject Matter

Independent claim 36 recites a method of forming polyolefins comprising supplying ethylene monomer in a carrier liquid to a reactor system comprising at least one loop reactor, circulating the ethylene through the loop reactor in the presence of a catalyst system to form a slurry of polymer fluff particles in the carrier liquid, altering the flow of at least a portion of the slurry by at least one of flowing a portion of the slurry through a bypass line extending from one location of the loop reactor to another location of the same loop reactor, operating a circulating pump and circulating the slurry through the loop reactor at an efficiency of from 30-75% of a pump capacity or providing a plurality of obstacles in a flow path of the slurry within the loop reactor and while continuing the introduction of the carrier liquid and ethylene monomer into the loop reactor, withdrawing a portion of the slurry from the loop reactor as a polymer product. *See*, Specification, at least page 3, lines 7-13 and Figures.

Independent claim 38 recites a method of forming polyolefins comprising supplying ethylene monomer in a carrier liquid to a reactor system comprising at least one loop reactor, circulating the ethylene through the loop reactor in the presence of a catalyst system to form a slurry of polymer fluff particles in the carrier liquid, altering the flow of at least a portion of the slurry by flowing a portion of the slurry through a bypass line extending from one location of the loop reactor to another location of the loop reactor, wherein the flow circulates through the bypass line without the aid of a pump disposed within the bypass line and while continuing the introduction of the carrier liquid and ethylene monomer into the loop reactor, withdrawing a portion of the slurry from the loop reactor as a polymer product. *See*, Specification, at least page 3, lines 7-13 and Figures.

Grounds of Rejection to be Reviewed on Appeal

1. The rejection of claim 38 under 35 U.S.C. §112, first paragraph.
2. The rejection of claims 17-30, 34-36 and 38 under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 3,595,846 (*Rouzier*).
3. The rejection of claims 29-30 under 35 U.S.C. §103(a) as being unpatentable over *Rouzier* in view of U.S. Pat. No. 3,093,482 (*Weinreich*).

Arguments

I. THE EXAMINER ERRED IN REJECTING CLAIM 38 UNDER 35 U.S.C. §112, FIRST PARAGRAPH.

The Examiner argues that "applicants' original disclosure does not have any basis for the negative limitation 'without the aid of a pump disposed within the bypass line' as claimed in claim 38". *See*, Final Office Action at page 2, last paragraph to page 3, first paragraph. While Appellants understand that "any claim containing a negative limitation which does not have basis in the original disclosure should be rejected under 35 U.S.C. 112, first paragraph", as maintained by the Examiner, Appellants respectfully submit that support for the recitation wherein the flow circulates through the bypass line without the aid of a pump disposed within the bypass line is clearly supported by the specification.